IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 25TH OCTOBER 2007 / 3RD KARTHIKA 1929

Crl.MC.No. 3266 of 2007()

M.P.NO.4884/07 IN CRL.APPEAL 660/07 OF THE LEARNED SESSIONS COURT, ERNAKULAM

PETITIONER:

SABU PAUL,
DIRECTOR, SILVER SOFT HAMILTON TECHNOLOGIES PVT. LTD., 28/3299, MALKA TOWERS, CHERUPARAMBATH ROAD, KADAVANTHRA, KOCHI-20.

BY ADV. SRI.SHAJI P.CHALY

RESPONDENTS:

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1. STATE OF KERALA, REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.

2. SUB INSPECTOR OF POLICE, TOWN SOUTH POLICE STATION, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 25/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.3266 of 2007

Dated this the 25th day of October, 2007

O R D E R

The petitioner has been found guilty, convicted and sentenced by the trial court in a prosecution under Section 420 I.P.C. The petitioner has been sentenced to undergo the substantive sentence of imprisonment for a period of 2 years. He has further been sentenced to pay a fine of Rs.5 lakhs and in default to undergo S.I for a period of one year. Out of the fine amount, an amount of Rs.1 lakh was directed to be released to Pws 1 to 4 by way of compensation under Section 357(1) Cr.P.C.

2. The petitioner preferred an appeal. The appeal was admitted. His application for suspension of sentence was allowed subject to conditions. The petitioner is aggrieved by the condition imposed by Annexure-A2 order dated 16.10.07 that in addition to execution of a bond, he must deposit an amount of Rs.1 lakh within a period of one month.

3. The learned counsel for the petitioner submits that the petitioner is unable to raise such amount. If insistence were made on such deposit, the petitioner will have to face the unfortunate predicament of continuing in custody before his appeal is taken up for

hearing on merits. Appropriate directions may be issued to avoid such injustice, prays the learned counsel for the petitioner.

3. After discussions at the Bar, the learned counsel for the petitioner accepts that the petitioner shall deposit an amount of Rs.50,000/- (Rupees Fifty thousand only) by 16.11.07 before the learned Sessions Judge. If such payment is made, the petitioner shall be granted time till 19.12.2007 to pay the balance amount. If the petitioner feels that he shall not be able to raise the balance amount of Rs.50,000/- by 19.12.07, he can, when he deposits the amount of Rs.50,000/- before the learned Sessions Judge on or before 16.11.07, request the learned Sessions Judge for an expeditious out of turn disposal of the appeal. If such a request is made, the learned Sessions Judge must ensure disposal of the appeal on merits before 19.12.2007.

4. This Crl.M.C is allowed in part to the above extent.

(R.BASANT, JUDGE)

rtr/-